

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Martinez for an Order Authorizing Construction of a Grade-Separated Pedestrian Crossing (CPUC No.001A-31.50-AD/CC-1406, DOT No.440865T) over Tracks of the Union Pacific Railroad Company (MP 31.5-Martinez Subdivision) near Ferry Street in the City of Martinez, County of Contra Costa County.

Application 14-07-004
(Filed July 17, 2014)

**DECISION GRANTING AUTHORIZATION TO THE CITY OF MARTINEZ TO
CONSTRUCT A GRADE-SEPARATED PEDESTRIAN CROSSING AT THE
MARTINEZ STATION OVER THE UNION PACIFIC RAILROAD COMPANY
TRACKS IN THE CITY OF MARTINEZ, COUNTY OF CONTRA COSTA**

Summary

This decision grants the City of Martinez authorization to construct a new grade-separated pedestrian crossing over the Union Pacific Railroad Company Martinez Subdivision tracks at the Martinez Station in the City of Martinez, County of Contra Costa. The crossing will be identified as California Public Utilities Commission Crossing Number 001A-31.50-AD and United States Department of Transportation Number 440865T.

This proceeding is closed.

Discussion

The City of Martinez (City) requests authority to construct a new grade-separated pedestrian crossing (crossing) over the Union Pacific Railroad Company's (UPRR) Martinez Subdivision four mainline tracks. The crossing will

provide safe access between the National Railroad Passenger Corporation (Amtrak) Martinez Station and a new station parking lot north of the tracks.

Rail operations will include 12 freight trains per day traveling 30 miles per hour and 42 combined Amtrak and Capitol Corridor Joint Powers Authority passenger trains per day traveling 40 miles per hour at the crossing.

The design and construction of the crossing structure will comply with all minimum clearance requirements set forth in California Public Utilities Commission (Commission/CPUC) General Order (GO) 26-D, as well as all UPRR design standards.

The crossing will be identified as CPUC No. 001A-31.50-AD, and United States Department of Transportation (DOT) No. 440865T.

The crossing will provide a safe passage for pedestrians over UPRR's tracks between a new parking lot north of the tracks and the Amtrak station located south of the tracks. The structure will be approximately 110 feet long and eight feet wide. The structure will consist of stainless steel railings with steel perforated screens at both sides of the overhead structure and stairways for access, as well as landings and ramps on the north end of the overpass structure to be compliant with the Americans with Disabilities Act (ADA). The south end of the overpass structure will connect directly to the Martinez Amtrak station's second level terrace.

Environmental Review and CEQA Compliance

The California Environmental Quality Act of 1970 (CEQA, as amended, Public Resources Code Section 21000, et seq.) applies to discretionary projects to be carried-out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant

environmental effects of the proposed activities. Since the project is subject to CEQA and the Commission must issue a discretionary decision in order for the project to proceed (i.e., the Commission has the exclusive authority to approve the project pursuant to Section 1202 of the Public Utilities Code), the Commission must consider the environmental consequences of the project by acting as either a lead or responsible agency under CEQA.

The lead agency is either the public agency that carries out the project,¹ or the one with the greatest responsibility for supervising or approving the project as a whole.² Here, the City is the lead agency for this project because it is constructing the project, and subject to its review and approval, and the Commission is a responsible agency because it has jurisdiction to issue a permit for the project. As a responsible agency under CEQA, the Commission must consider the lead agency's environmental documents and findings before acting on or approving this project.³ Also, as a responsible agency, the Commission must make findings regarding each significant effect of the project components under its jurisdiction; such findings shall include relevant mitigation measures.⁴

¹ CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(a).

² CEQA Guidelines (Title 14 of the California Code of Regulations), Section 15051(b).

³ CEQA Guidelines, Sections 15050(b) and 15096.

⁴ CEQA Guidelines, Section 15096(h)

The crossing is part of the larger Martinez Intermodal Project in which the City released a Notice of Preparation (NOP) in January 1993 and the Draft Environmental Impact Report (DEIR) in August 1994. The City will construct the pedestrian overpass crossing as part of Phase 3 of the Martinez Intermodal Project. In March 2007, the City released a Draft Initial Study and Proposed Mitigated Negative Declaration (DIS/MND) specific to Phase 3, titled *Martinez Intermodal Project Phase 3: Parking Expansion*. On March 28, 2007, the City filed a Notice of Determination (NOD) approving the project which stated that the project will not have a significant effect on the environment, an MND was prepared, mitigation measures were made a condition of the approval of the project, a Mitigation Monitoring and Reporting Program (MMRP) was adopted for the project, a Statement of Overriding Conditions (SOC) was not adopted, and findings were made pursuant to the provisions of CEQA.

Impacts identified under CEQA relating to the rail crossing are within the scope of the Commission's jurisdiction. The DIS/MND identified multiple impacts as less than significant or less than significant with mitigation incorporation. However, most of impacts are only related to the larger Phase 3 of the Martinez Intermodal Project, but are not related to the pedestrian overpass crossing specifically. Environmental impacts considered to be less than significant with mitigation incorporation that may be related to the rail crossing are impacts to geology and soils and noise impacts. All impacts can be mitigated to a less-than-significant level.

Geology and soil impacts include liquefaction concerns, storm water discharge during construction, and settlement and expansion of soils. The mitigation measures proposed by the City include a detailed geotechnical

investigation which will recommend siting and design criteria for construction in areas susceptible to liquefaction, preparation of a Storm Water Pollution Prevention Plan, and a detailed geotechnical investigation to identify sub-surface conditions and provide recommendations on foundation and drainage designs. The DIS/MND found that these impacts will be less than significant after adopted mitigation measures are implemented.

Noise impacts include increased noise during construction. Mitigation measures consist of restricting the hours of construction, public notification, muffling and maintenance of construction equipment, and appointment of a disturbance coordinator available to the public for resolution of noise complaints. The DIS/MND found that these impacts will be less than significant after adopted mitigation measures are implemented.

The Commission reviewed and considered the City's DIS/MND and NOD as these documents relate to this grade-separated highway-rail structure and finds these documents adequate for our decision-making purposes.

Filing Requirements and Staff Recommendation

The application is in compliance with the Commission's filing requirements, including Rule 3.7 of the Rules of Practice and Procedure, which relates to the construction of a public highway across a railroad.

The Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch has inspected the site of the proposed crossing, reviewed, and analyzed the plans submitted with the application, and recommends that the requested authority to construct the subject crossing be granted for a period of three years.

Categorization and Need for Hearings

In Resolution ALJ 176-3340, dated August 14, 2014, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Assignment of Proceeding

Elizaveta Malashenko is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission's Daily Calendar on July 18, 2014.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a new grade-separated pedestrian crossing over four mainline tracks owned by UPRR in the City of Martinez, Contra Costa County. The crossing will be identified as CPUC Crossing Number 001A-31.50-AD, and DOT No. 440865T.
3. The crossing design and construction will conform to ADA requirements.
4. The crossing will comply with all minimum clearance requirements set forth in Commission GO 26-D.
5. The City is the lead agency for this project under CEQA.

6. In January 1993, the City filed the NOP for the Martinez Intermodal Project, of which the rail crossing is one aspect of the project.

7. In August 1994, the City issued the DEIR for the project.

8. In March 2007, the City released the DIS/MND titled *Martinez Intermodal Project Phase 3: Parking Expansion*.

9. On March 28, 2007, the City filed a NOD stating the project will not have significant environmental impacts with adopted mitigation measures and MMRP to track compliance with mitigation measures.

10. The environmental findings of the DIS/MND indicate the grade-separated rail crossing will have significant effects on the environment. Environmental impacts considered to be significant to the crossing include geology and soils impacts, hazardous materials impacts, noise level increases, and transportation and traffic impacts and all impacts will be reduced to a less-than-significant level by adopted mitigation measures.

11. Regarding geology and soils impacts, the mitigation measures proposed are to perform a detailed geotechnical investigation recommending design criteria for construction, prepare a Storm Water Pollution Prevention Plan, and perform a detailed geotechnical investigation to identify sub-surface conditions and provide recommendations on foundation and drainage designs. The DIS/MND found that these impacts will be reduced to less-than-significant level by the adopted mitigation measures.

12. Regarding the noise impact, the mitigation measures consist of restricting the hours of construction, public notification, muffling and maintenance of construction equipment, and appointment of a disturbance coordinator available to the public for resolution of noise complaints. The DIS/MND found that this

impact is less than significant after adopted mitigation measures are implemented.

13. The proposed crossing will provide safe public access between the Martinez Amtrak station and the new parking lot and will result in increased efficiency of public safety.

Conclusions of Law

1. Safety, traffic/transportation, and noise impacts are areas within the scope of the Commission's permitting process.

2. The design features selected by City for the crossing are consistent with GO 26-D requirements.

3. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's DIS/MND and NOD.

4. The DIS/MND and NOD reflect the Commission's independent judgment and analysis.

5. The DIS/MND, titled *Martinez Intermodal Project Phase #3: Parking Expansion*, dated March 2007, and NOD prepared by the City, as the documentation required by CEQA for the project, are adequate for our decision-making purposes.

6. The DIS/MND and NOD were completed in compliance with CEQA.

7. The application is uncontested and a public hearing is not necessary.

8. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Martinez (City) is authorized to construct a new grade-separated pedestrian-rail crossing over the Union Pacific Railroad Company's

Martinez Subdivision mainline tracks at the Martinez Station, in the City of Martinez, County of Contra Costa, as described in the City's application.

2. The grade-separated pedestrian-rail crossing shall be identified as California Public Utilities Commission Crossing Number 001A-31.50-AD and United States Department of Transportation Number 440865T.

3. The grade-separated pedestrian-rail crossing shall have the crossing treatments and configuration described above and specified in the application and attachments.

4. The City of Martinez shall comply with all applicable rules, including California Public Utilities Commission General Orders, the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities and the California Manual on Uniform Traffic Control Devices.

5. The City of Martinez shall notify the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch at least five (5) business days prior to opening the grade-separated roadway structure. Notification must be made to rceb@cpuc.ca.gov.

6. Within 30 days after completion of the work under this order, the City of Martinez shall notify the California Public Utilities Commission's Safety and Enforcement Division - Rail Crossings and Engineering Branch in writing, by submitting a completed California Public Utilities Commission Standard Form G (*Report of Changes at Highway Grade Crossings and Separations*), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/PUC/safety/Rail/Crossings/formg.htm>. This report may be submitted electronically to rceb@cpuc.ca.gov.

7. Within 30 days after completion of the work under this order, Union Pacific Railroad Company shall notify the Federal Railroad Administration of the existence of the crossing by submitting a U.S. DOT CROSSING INVENTORY FORM, form FRA F6180.71. Concurrently Union Pacific Railroad Company shall provide a copy of the inventory form to the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch. This copy of the form may be submitted electronically to rceb@cpuc.ca.gov.

8. This authorization shall expire if not exercised within three years, unless time is extended or if the above conditions are not satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so requires.

9. A request for extension of the three-year authorization period must be submitted to the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings and Engineering Branch at least 30 days before the expiration of that period. A copy of the request must be sent to all interested parties.

10. The application is granted as set forth above.

11. Application 14-07-004 is closed.

This order is effective today.

Dated _____, 2015, at San Francisco, California.